

REMARKS

Upon entry of the present Reply, claims 21-24 and 26-31 will be pending. Claims 21 and 22 will have been amended to correct informalities in the claim language and to more clearly define the invention. Applicants have amended the claims, as set forth herein, to expedite prosecution. However, the Applicants submit that the amendments should not be construed as an admission to the propriety of the Examiner's rejections.

Applicant thanks the Examiner for accepting the drawings filed February 2, 2006 and confirming such on the PTOL-326 Form that accompanied the above noted May 4, 2006 Official Action.

In the afore-noted Final Office Action, the Examiner rejected claim 22 under 35 U.S.C. §112, second paragraph as being indefinite. The Examiner graciously suggested an amendment to claim 22. Applicant has amended claim 22 in accordance with the Examiner's suggestion. Applicant submits that the Section 112 rejection is overcome by entry of this Reply. Thus, Applicant respectfully requests withdrawal of the outstanding rejection.

The Examiner rejected claims 21-24 and 26-29, in the afore-noted Final Office Action under 35 U.S.C. § 103(a), as being unpatentable over BESTAVROS et al. (U.S. Patent No. 6,370,584) in view of High Performance Networking, by Mark A. SPORTACK et al. Applicant respectfully traverses this rejection and requests reconsideration and withdrawal of the same.

Initially, Applicant notes that the Examiner did not explicitly include claim 31 in the above noted rejection heading. However, based on the Examiner's explicit

reference to claim 31 in the above noted Final Action, it appears that the Examiner intended to include the rejection of claim 31 under the above noted grounds.

Referring to column 3, lines 38-42 of BESTAVROS et al., for example, the patent teaches that each host 10, 12, 14, 16 and 20 tracks Transmission Control Protocol (TCP) connection establishment and termination between clients 24, 26, 28 and the group 20 by maintaining a state table that indicates which connections are being rerouted. The reference appears to also require each host to monitor the current load on each host using the stateless rerouting function as described at column 3, lines 38-54 and column 4, lines 27-33. BESTAVROS et al. suggest, e.g., at column 3, lines 49-50, that a “user daemon can be employed to adjust the rerouting criteria as conditions change.” Considering the disclosure at column 3, lines 38-42 in conjunction with the disclosure at column 3, lines 49-50, it appears that BESTAVROS et al. suggest that the user daemon would be employed in each of the hosts 10, 12, 14, 16 and 18.

Meanwhile, as noted at page 7 of the specification of the present disclosure, an embodiment of the invention assigns one server module as the routing table manager, and another server module to serve as the load manager to determine the computer utilization level of all data processing units. Thus, it appears that BESTAVROS et al. do not teach or suggest such a server module relationship. Instead, as noted above, BESTAVROS et al. appear to require each host to perform both functions.

Applicant notes that claim 21 explicitly recites “wherein one server module of the plurality of server modules is provided as a routing server module that constantly updates the routing table in accordance with evaluated utilization data of other server modules, the routing server module transmitting a current routing table to the other

server modules.” Applicant submits BESTAVROS et al. fail to teach or suggest, alone or in any proper combination, the recited feature, as well as the remaining recitations of claim 21.

SPORTACK et al. fail to remedy the inadequacies of the BESTAVROS et al. patent. Specifically, SPORTACK et al., like BESTAVROS et al., fail to teach or suggest, *inter alia*, the above noted recitation of claim 21, i.e., “wherein one server module . . .”. Hence, the combination of BESTAVROS et al. and SPORTACK et al., as posited by the Examiner in the afore-noted Final Action, fails to render the recitations of claim 21 unpatentable. Thus, Applicant respectfully requests reconsideration and withdrawal of the above noted rejection. Since the claims are now in condition for allowance, Applicant further requests that the application, including all pending claims be passed to issue and be allowed to mature into a patent.

Claims 22-24 and 26-31 depend from claim 21 and are patentably distinguishable for at least the reasons provided above with respect to claim 21, as well as for additional reasons related to their own recitation.

In the afore-noted Final Action, the Examiner rejected dependent claim 26 as being unpatentable under 35 U.S.C. § 103(a) over BESTAVROS et al. in view of SPORTACK et al., and further in view of TCP/IP Illustrated Volume 1: The Protocols, by W. Richard STEVENS. The Applicant respectfully traverses this rejection and requests reconsideration and withdrawal of the same.

Regarding claim 26, as discussed above, BESTAVROS et al. and SPORTACK et al., taken alone or in combination, fail to teach or suggest the recited features of claim 21 discussed above. The STEVENS reference, provided by the Examiner, i.e., in the

Final Action, to show that it is desirable to include more than one router in a network, fails to remedy the inadequacies of BESTAVROS et al. and/or SPORTACK et al.

Specifically, STEVENS is specific to routers that are used in an environment where independent routers appear to be required. Meanwhile, the recited subject matter of claim 21, and therefore claim 26 by its dependences from claim 21, explicitly states no "independent router" is required (see claim 21). More so, it appears that the Examiner has used impermissible hindsight to combine the teachings of STEVENS with the combination of BESTAVROS et al. and SPORTACK et al. The Examiner has not provided an independent teaching in the art that suggests that the "server module transmits the current routing table to the other server modules near the switching interface," in addition to the remaining recited subject matter of claims 21 and 26.

The Examiner also rejected claim 30 as being unpatentable under 35 U.S.C. § 103(a) over BESTAVROS et al. in view of SPORTACK et al., and further in view of GALLAGHER (U.S. Patent Application Publication 2001/0011314).

As discussed above, claim 31 depends from claim 21 and is patentably distinguishable over the prior art for at least the reasons provided above with respect to claim 21, as well as for additional reasons related to its own recitations.

Thus, Applicant respectfully submits that each and every pending claim of the present application meets the requirements for patentability at least under 35 U.S.C. §§ 101-103 and 112, and respectfully requests that the Examiner allow the application so that it may mature into a U.S. Letter Patent.

Applicant notes the status of the present application as being an after final rejection and with respect to such status believes that there is a clear basis for the entry

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of the present amendment consistent with 37 C.F.R. 1.116. Applicant notes amendments after final are not entered as a matter of right, however, Applicant submits that the amendment made to the pending claims do not raise any new issues requiring further search or consideration. It is also submitted that the present amendment does not raise the question of new matter. Moreover, the present amendment clearly places the present application in condition for allowance.

Accordingly, Applicants respectfully request entry of the present amendment in accordance with the provisions of 37 C.F.R. 1.116, reconsideration and withdrawal of the outstanding rejections, and indication of the allowability of the claims pending herein.

SUMMARY AND CONCLUSION

In view of the foregoing, it is submitted that the present Reply is in proper form, and that none of the references either taken alone or taken together in any proper combination thereof, anticipates or renders obvious Applicants' invention. In addition, the applied references of record have been discussed and distinguished, while significant features of the present invention have been pointed out. Accordingly, consideration of the present Reply, reconsideration of the outstanding Office Action and allowance of the present application and all of the claims therein are respectfully requested and are now believed to be appropriate.

Applicant notes that this Reply is being made to advance prosecution of the application to allowance, and no acquiescence as to the propriety of the Examiner's rejections is made by the present Reply. All amendments to the claims which have been made in this Reply, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

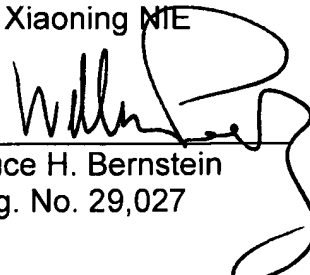
Applicant further notes the status of the present application as being an after final rejection and with respect to such status believe that there is a clear basis for the entry of the present Reply consistent with 37 C.F.R. § 1.116. Applicant notes amendments after final are not entered as a matter of right; however, Applicant submits that the amendments made to the pending claims do not raise any new issues requiring further search or consideration. It is also submitted that the present Reply does not raise the question of new matter. Moreover, the present Reply clearly places the present application in condition for allowance.

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Accordingly, Applicants respectfully request entry of the present Reply in accordance with the provisions of 37 C.F.R. § 1.116, reconsideration and withdrawal of the outstanding rejections, and indication of the allowability of the claims pending herein.

Should there be any questions regarding this paper or the present application, the Examiner is respectfully requested to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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